

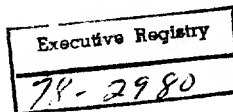


Washington, D.C. 20505

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OLC 78-5349/A

20 OCT 1978



OMB

Mr. James Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request for our views and recommendations on H.R. 9701, a bill that would require a financial audit of pension plans for officers and employees of the Federal Government. Since the Central Intelligence Agency is exempted from the bill, we defer to the views of those agencies directly affected.

We thank you for the opportunity to review this enrolled bill.

Sincerely,

/s/ Frank C. Carlucci

Frank C. Carlucci

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OLC:YTF:mao (20 Oct 78)

Approved For Release 2004/07/16 : CIA-RDP81M00980R001600110031-9

Ninety-fifth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday, the nineteenth day of January,
one thousand nine hundred and seventy-eight*

An Act

To amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Part II of title I of the Budget and Accounting Procedures Act of 1950 (64 Stat. 832) is amended by adding at the end thereof the following new matter:

"Subpart C

"FEDERAL GOVERNMENT PENSION PLANS

"SEC. 120. It is the purpose of this subpart to protect the interests of the Nation and of the participants and their beneficiaries in Federal Government pension plans and certain other pension plans by requiring full disclosure of the financial condition of such plans.

"SEC. 121. (a) Notwithstanding any other provision of law or any administrative determination to the contrary, each Federal Government pension plan and each plan described in section 123(b), except as specified in subsection (b) of this section, shall be deemed to be subject to the provisions of section 103 of the Employee Retirement Income Security Act of 1974 in the same manner as an employee pension benefit plan to which such section applies, except that, with respect to such a Federal Government pension plan or a plan described in section 123(b) —

"(1) the annual report required by such section shall be in such form, and shall include such information and data, as the President, in consultation with the Comptroller General (or in the case of a plan described in section 123(a) (9) or 123(b), the Comptroller General) may prescribe;

"(2) the annual report required by such section shall be furnished to the Congress and to the Comptroller General, not later than the end of the two hundred and ten-day period beginning on the day after the last day of the plan year involved;

"(3) unless specifically authorized by the Comptroller General, no provision of such section which provides for waiver of, relief from, or exception to any requirement otherwise applicable to an employee pension benefit plan shall be deemed to apply to such Federal Government pension plan or such plan described in section 123(b);

"(4) the provisions of section 104(b) of such Act shall not apply;

"(5) the report required by this subpart shall be in addition to and shall not supersede other reports or projections required by law; and

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"(6) other than in the case of a plan described in section 123(b), the Comptroller General shall perform such audits as the Comptroller General deems appropriate in lieu of the requirements for the independent qualified public accountant under section 103 of the Employee Retirement Income Security Act of 1974.

"(b) Nothing in this subpart shall be construed as imposing any requirement with respect to a Federal Government pension plan for officers or employees of the Central Intelligence Agency, unless the imposition of such requirement is specifically approved in writing by the President.

"(c) Nothing in this Act shall preclude the use by a plan of the services of an enrolled actuary employed by the agency or agencies administering the plan.

"Sec. 122. If requested by either House of Congress (or any committee thereof) or if deemed necessary by the Comptroller General, the General Accounting Office shall—

"(1) review financial and actuarial statements furnished pursuant to section 121 for the purpose of determining whether the reporting requirement of such section are adequate to carry out the purpose of this subpart; and

"(2) submit to the Congress such recommendations for legislative action as it may deem necessary to carry out the purposes of this subpart.

"Sec. 123. (a) For purposes of this subpart, the term 'Federal Government pension plan' means a pension, annuity, retirement, or similar plan (other than a plan covered under the Employee Retirement Income Security Act of 1974, or any plan or program which is financed by contributions required under chapter 21 of the Internal Revenue Code of 1954 (the Federal Insurance Contributions Act) or chapter 22 of the Internal Revenue Code of 1954 (the Railroad Retirement Tax Act)), whether or not such plan is an employee pension benefit plan within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974, established or maintained by the Government of the United States, or any agency or instrumentality thereof, for any of its officers or employees, without regard to the number of participants covered by such plan, and such term includes but is not limited to the following plan:

- "(1) Civil Service Retirement System;
- "(2) Foreign Service Retirement and Disability System;
- "(3) Military Retirement System;
- "(4) Coast Guard Retirement System;
- "(5) Commissioned Corps of the Public Health Service Retirement System;
- "(6) National Oceanic and Atmospheric Administration Retirement System;
- "(7) Tennessee Valley Authority Retirement System;
- "(8) nonappropriated fund plans; and
- "(9) judicial plans.

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“(b) For purposes of this subpart, the plans described in section 123(b) are the following (other than any of the following which are covered under the Employee Retirement Income Security Act of 1974):

- “(1) Federal Reserve Employees Retirement Plans;
- “(2) Federal Home Loan Bank Board Retirement Systems;
- “(3) Federal Home Loan Mortgage Corporation Plan; and
- “(4) Farm Credit District Retirement Plans.

“SEC. 124. The requirement imposed by section 121(a) shall apply with respect to plan years beginning after September 30, 1978. For purposes of this section, the term ‘plan year’ means with respect to a plan, the calendar, policy, or fiscal year chosen by the plan on which the records of the plan are kept.”

SEC. 2. Part II of title I of the Budget Accounting Procedures Act of 1950 (64 Stat. 832) is further amended—

(1) by inserting after “PART II—ACCOUNTING AND AUDITING” the following new center heading:

“Subpart A”;

and

(2) by inserting after section 111 the following new center heading:

“Subpart B”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

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